

between the shape which revolution may here assume, and the shapes which it assumes under those forms of government where the *whole* sovereignty is vested in a single head, and where the government is formed exclusively by, and operates *solely* on *individuals*. The people, acting in their *individual* capacity—some in one State and some in another without reference to sectional lines, may undertake to remodel or change the government, contrary to the forms of the Constitution. Instead of a revolution marked by sectional lines, a portion of the people of Maryland may be dissatisfied with their form of government. A portion of the people of Massachusetts, and a portion of the people of New Hampshire may also be dissatisfied, and may try to overturn the Federal Government; and we may have in either one or all of these States, a portion of the people standing by the Federal Government, and a portion aiming at its overthrow, the result being this: that one State will be with the Federal Government, and another against it, accordingly as the numerical majority or State authority may incline. Massachusetts may be with it, and Maryland may be against it; and the revolution will go on in that shape or form. This would be revolution as commonly understood and treated of by writers on government. But the people acting through organized communities, through the States, may attempt the same thing. They may by sectional lines gain the power and authority over the State Governments, and act in the revolution just as we see that revolution is now going on in the Southern States; a sectional line drawn, and those within that line waging war against the Government, through the action of the States at first, and afterwards, under the direction of an authority created by the States. This is still *revolution*. But a new form of revolution developed by our American theory of government, and not known to, or at least distinguished plainly by European, or even American writers, who have treated upon the subject. Vattel *Laws of nations*, book 3, ch. 18, page 424, contains the germ of the idea, but does not plainly develop it.

“When a party is formed in a State, who no longer obey the sovereign, and are possessed of sufficient strength to oppose him,—or when in a republic, the nation is divided into two opposite factions, and both sides take up arms,—this is called a *civil war*. Some writers confine this term to a just insurrection of the subjects against their sovereign, to distinguish it from that unlawful resistance, *rebellion*, which is an open and unjust resistance. But what appellation will they give to a war which arises in a republic torn by two factions; or in a monarchy, between two competitors for the crown? Custom appropriates the term of ‘civil war’ to every war between the members of one and the same political so-

ciety. If it be between part of the citizens on the one side, and the sovereign and those who continue in obedience to him on the other, provided the malcontents have any reason for taking up arms, nothing further is required to entitle such disturbance to the name of civil war, and not rebellion. This latter term is applied only to such an insurrection against lawful authority as is void of all appearance of justice. The sovereign, indeed, never fails to bestow the appellation of rebels on all such of his subjects as openly resist him; but when the latter have acquired sufficient strength to give him effectual opposition, and to oblige him to carry on the war against them according to the established rules, he must necessarily submit to the use of the term ‘civil war.’

“A civil war breaks the bonds of society and government, or at least suspends their force and effect; it produces in the nation two independent parties, who consider each other as enemies, and acknowledge no common judge. These two parties, therefore, must necessarily be considered as thenceforward constituting, at least for a time, two separate bodies, two distinct societies. Though one of the parties may have been to blame in breaking the unity of the State and resisting the lawful authority, they are not the less divided in fact. Besides, who shall judge them? Who shall pronounce on which side the right or the wrong lies? On earth they have no common superior. They stand therefore in precisely the same predicament as two nations, who engage in a contest, and being unable to come to an agreement, have recourse to arms.”

Hon. James A. Bayard, in his speech delivered in the Senate on the — day of March, 1861 (*Congressional Globe*, volume —, page —, — session of Congress,) has more fully argued with masterly ability the theory of secession as being revolution by *States* than I have ever known the subject to be discussed. He there takes the ground that secession is revolution by *States*—admits the right of the General Government to deal with the seceded States through a resort to negotiation, by measures of conciliation, or to make the act of secession a *casus belli*, and concludes his argument by maintaining the power of the President, by and with the advice and consent of the Senate, to recognize the independence of the Southern States.

To go one step further, I will refer again to 2 Black's *Supreme Court Reports*, 636; and I would ask the gentleman from Baltimore city (Mr. Stirling) whether he recognizes that decision as authority, or whether that is also a case where he will only submit to the *execution* issued thereon; a doctrine as subversive of law and order, and constitutional principles and as direct a denial of the authority of the Supreme Court, whose de-